

IN THE SENATE OF THE UNITED STATES.

MAY 29, 1896.—Ordered to be printed.

Mr. SHOUP, from the Committee on Military Affairs, submitted the following

REPORT:

[To accompany H. R. 4872.]

The Committee on Military Affairs, to whom was referred the bill (H. R. 4872) to correct the military record of Homer C. McCuskey, have examined the same, and report:

This bill passed the House of Representatives May 18, 1896, the report in the case being as follows:

The Committee on Military Affairs, to whom was referred the bill (H. R. 4872) to correct the military record of Homer C. McCuskey, having had the same under consideration, would report thereon as follows:

The object of the bill is to remove the charge of desertion now standing against Homer C. McCuskey, second lieutenant of the Seventh Regiment United States Colored Troops, and that the Secretary of War be directed to issue to him an honorable discharge, to date from the muster out of such regiment. The records of the War Department show the service of the soldier to be as follows:

That Homer C. McCuskey was enrolled as a private in Company G, Thirty-first Ohio Infantry, to serve three years, and that he was discharged October 29, 1861, because of "chronic enlargement of the liver."

As Homer C. McCuskey he again enlisted as a private in Company D, Sixty-second Ohio Infantry, February 18, 1864, and was discharged by reason of promotion to second lieutenant, Seventh Regiment United States Colored Troops, November 28, 1864.

It is also shown by the records that Homer C. McCuskey, aged 21 years, was enrolled November 30, 1864, and was mustered into service as second lieutenant, Company B, Seventh United States Colored Infantry December 19, 1864, to date November 30, 1864, to serve three years.

He was transferred to Company K, same regiment, December 31, 1865. The muster rolls report him as follows: From enrollment to June 30, 1865, "present;" August 31 and to December 31, 1865, "absent sick in hospital;" February 28 and to June 30, 1866, "absent without authority."

On March 24, 1866, Lieut. Col. O. E. Pratt, commanding the regiment, reported that Mr. McCuskey had been sent to hospital at New Orleans by the surgeon in charge of the post hospital at Indianola, Tex., in September, 1865; that he (Colonel Pratt) had since ascertained from a reliable source that Mr. McCuskey had not entered hospital at New Orleans, but had proceeded to his home in Ohio and thence to Minnesota, where he was engaged in farming; and that he had been reported absent without leave since February 20, 1866. That report having been duly forwarded to the War Department, and Mr. McCuskey's address not being known, he was notified by newspaper publication to make defense to the charge of desertion within thirty days or be subject to recommendation for dismissal. No response or defense having been received, Mr. McCuskey was "dropped from the rolls of the Army for desertion," he "having absented himself from his command since September 1, 1865, without authority," by order of the Secretary of War, in paragraph 1, Special Orders, No. 390, War Department, Adjutant-General's Office, August 9, 1866. No medical record of him has been found.

The affidavit of the beneficiary, made on the 4th day of January, 1896, shows that he remained at the hospital at Indianola until September, 1865; that his health continuously grew worse, and that he was informed by the post surgeon that if he recovered he would have to go north, and that such surgeon gave him written permission to go for his health, which written permit both McCuskey and his wife, Emily J. McCuskey, in their affidavits, stated was lost with other of McCuskey's army papers about the time they moved to Iowa; that he went to his home at Somerseset, Ohio, and that at the time of leaving the hospital he was unable to get to the boat alone, and was assisted thereto; that he continued sick and unable for active duty after his return home, and that he sent in his resignation on account of sickness, and, on the assurance that it would be accepted, supposed it had been until long thereafter; that being in poor health and only a boy in years and experience, he did not give the matter the concern that he should have done, or find out just what action was taken as to his resignation, or whether it was received.

Accompanying the papers is an affidavit made by John L. Sheridan on the 9th day of October, 1890, stating that he was well acquainted with McCuskey, late a lieutenant in the Seventh United States Colored Infantry, and that McCuskey applied to him in the autumn of 1865 for information as to the method to be pursued to resign from the service of the United States; that, at said McCuskey's suggestion, the said John L. Sheridan wrote to the late General Sheridan, then commanding Department of the Gulf, and was by him informed that the resignation would be accepted for cause, provided such resignation was forwarded through regular channels; that said McCuskey in his affidavit states that said John L. Sheridan was a brother of Gen. P. H. Sheridan, commanding the department in which McCuskey's regiment was then serving, and that said McCuskey, upon forwarding his resignation, relied upon the assurance that it would be accepted. He further states in his affidavit that he did not learn that his resignation had not been accepted or that he was borne on the records of the Army as a deserter until long after his regiment had been mustered out. The affidavit of Mrs. McCuskey, made on the 13th day of August, 1891, corroborates her husband's statement as to his reaching home sick, and also as to seeing the written permission, given by the surgeon, for him to go to his home.

Your committee, from an examination of the records and papers in the case, are therefore of the opinion that the soldier in this case never intended to desert, or believed that he had deserted, but that his absence from his command at the time it was mustered out was due to his ill condition of health, the admonition of the surgeon that if he expected to recover he must go North, the written permission of the surgeon so to do, the subsequent tender of his resignation upon arrival at home after he discovered that he was not recovering his health, and the assurance received by him that such resignation would be accepted for cause such as prompted him to tender the same, which was his illness, and therefore recommend that the bill do pass.

Your committee are of the opinion that the case is an entirely meritorious one, and therefore report it back favorably, and recommend its passage, with the following amendment:

Strike out all after the word "from," in line 8, and insert "October first, eighteen hundred and sixty-five: *Provided*, That the said Homer C. McCuskey shall receive no bounty, pay, or emoluments of any kind subsequent to said last-named date."